



Committee of Adjustment Minutes

1:00 PM - Monday, June 24, 2024
Council Chambers

Present: Carl Tooley (Chair), Garry Wood (Electronic Participation), Jim Ogilvie, and Brent Smith (Electronic Participation)

Also Present: Tara Mieske, Secretary/Treasurer; Brooke Drechsler, Deputy Clerk/Assistant to the Planning Manager; Sonya Bolton, Manager of Community Planning, County of Frontenac (Electronic Participation); Jennie Kapusta, Community Planner, County of Frontenac; and Mike Kelly, Community Planner, County of Frontenac

1. Call to Order

The Chair called the meeting to order at 1:00 p.m. The Secretary read the Opening Remarks.

2. Traditional Land Acknowledgement

We begin this gathering by acknowledging and celebrating these traditional lands as a gathering place of the first peoples and their ancestors who are entrusted to care for Mother Earth since time immemorial. We do so respecting both the land and the Indigenous People who continue to walk with us through this world. Today, the Township of North Frontenac is committed to working with Indigenous Peoples and all residents to pursue a united path of reconciliation.

3. Approval of Agenda

a) **June 24, 2024**

14-24 Moved by Jim Ogilvie, Seconded by Garry Wood

Be It Resolved That the Committee approves the Agenda for June 24, 2024, as circulated.

Carried

4. Disclosure of Pecuniary Interest and General Nature Thereof

None declared.

5. Delegations

None.

6. Adoption of Minutes

- a) **Minutes of Meeting held May 27, 2024**
15-24 Moved by Jim Ogilvie, Seconded by Garry Wood

Be It Resolved That the Committee adopts the Minutes of a Meeting held on May 27, 2024 as circulated.

Carried

7. Business Arising Out of Minutes

None.

8. Zoning By-law Amendment Application (Recommendation to Council)

None.

9. Consent Application with Minor Variance

- a) **File #B08/24 - Creation of One New Lot**
File #A04/24 - Minor Variance for Reduced Water Frontage
Part of Lot 15, Concession 1, Geographic Township of Barrie (Big Gull Lake)

Ben Thompson, applicant, was present at the hearing.

Jennie Kapusta, Community Planner, provided an overview of the Consent application to create one lot and the Minor Variance application to permit a reduced waterfrontage of 61 metres on the proposed new lot. She advised the property is currently zoned Residential Waterfront (RW) and Rural (RU), with an area of regulated wetland on the retained parcel.

Kapusta advised North Frontenac Council recently passed a Resolution approving a transfer of land in exchange for Thompson Road between the property owners and the Township. She noted the transfer will result in the natural severance of a parcel (shown as Part 4 on site plan) that does not meet the requirements of the Zoning By-law; however the proposed land transfer will not have an impact on the Consent and Minor Variance applications.

Kapusta advised the existing structures will be removed prior to the creation of the proposed lot to reduce density on the waterfront. She noted the septic review provided with the Consent application confirmed the retained and severed lots are suitable for septic installation. Kapusta advised Mississippi Valley Conservation Authority (MVCA) were formally circulated and had no objections to the creation of the new lot with the reduced frontage. She advised MVCA recommended a 15 metre buffer around the wetland area on the retained parcel.

Kapusta advised planning staff typically wouldn't be supportive of a reduced waterfrontage; however the proposed reduction will permit the retained parcel to use the existing cleared area to access the waterbody and limit the impact on the existing

wetland. She noted comments were received from the neighbouring property owners regarding the exchange of land and the Minor Variance application, which may require a deferral of the applications for further review.

Public Comments

Steven Follett, solicitor representing the Kosziwka family (neighbouring property owner), provided a presentation to the Committee addressing Kosziwka's concerns with the applications.

Mr. Follett noted the land exchange between the Township and the Thompson family is not part of the planning applications; however he advised the Consent and Minor Variance applications should not be approved as they do not conform to the Township's Official Plan and Zoning

By-law. He noted the Township already owns Part 3 (parcel proposed to be conveyed to the Township); therefore if the applications are approved, Part 3 should be conveyed with no consideration. Also, further/future variances should not be permitted on Parts 1,2 and 4 on the provided site plan to limit future development.

Mr. Follett advised the Minor Variance application only addresses variances on Part 1; the application does not address the proposed oversized buildings within the 30 metre setback from the high water mark shown on the sketch. He noted the Committee should be shown the overall intent of the proposed development.

Mr. Follett noted the retained parcel is not adequately described in the Consent application. He advised the applicants are requesting a 21% reduction in waterfrontage, which should not be considered minor in nature, but is a significant variance. He noted Section 4.10.3 (d) of the Township's Official Plan shows the importance of limiting density to maintain character. He advised if the Committee approves the reduced frontage, they could be opening the door to other applications proposing the creation of waterfront lots with significant reduced frontage.

Mr. Follett advised that by law the Township owns Part 3, being a forced road that has existed and been maintained for decades. He noted the Committee should deny the applications; however, if the applications are approved, additional conditions should include the conveyance of Part 3 to the Township for no consideration and no additional minor variances be permitted. He advised there are concerns with setting precedent if the request for reduced water frontage is approved.

George Kosziwka

Mr. Kosziwka advised he provided written comments to the Committee for consideration. He noted if the applications are approved, many other similar requests for reduced frontage will be submitted. He advised the applicants are asking the Township to change the By-law to permit the reduction.

Mr. Kosziwka advised the Township passed the Resolution approving the land exchange

with the Thompsons on June 6, 2024; however he was not notified of the decision until June 19, 2024. He advised the land exchange goes against their rights as abutting land owners as they are not being offered a portion of the road allowance as per the Township's policy and asked if the Township has ever done this before. Mr. Kosziwka advised he has put the Township on notice they, as abutting land owners, are entitled to half the Concession Road Allowance; and that legal action will be pursued if the land exchange moves forward.

Mr. Kosziwka noted Part 4 will require a Minor Variance as it is 1/4 of the area required to meet the Zoning By-law and is not developable. He advised the applicants will continue to request minor variances to develop the parcels; and requests the Committee defer the applications until all future Minor Variances are identified.

Kapusta advised any condition included in a Notice of Decision must be completed within two years and that conditions cannot be imposed on the retained lot unless the applicant is in agreement. She noted all planning applications are considered on a case-by-case basis and decisions by the Committee will not set a precedent. Sonya Bolton, Manager of Community Planning noted the Planners had received additional details and information which requires review; and they recommend a deferral of the applications to allow time to review the comments and provide recommendations to the Committee.

Committee Comments

Garry Wood noted the Committee and Planners had received information that needs to be reviewed and agreed with the recommendation to defer the applications.

Jim Ogilvie asked if the 15 metre setback is required around the entire wetland area. Kapusta advised the wetland area is located on the retained parcel. She noted the Zoning By-law provides for a 30 metre setback for structures from a wetland and a 15 metre natural vegetative buffer.

Mr. Follett advised he provided a letter to the Committee identifying case law regarding precedent and the idea to "maintain the intent of the By-law". He noted decisions of the Committee could have consequences that need to be considered.

Applicant Comments

Mr. Thompson advised both properties have water frontage; however the reduced frontage will protect the wetland area. He advised there is 16 metres of usable waterfront on the retained and there will be no impact on the density. He noted there is no intent to further sever the lots.

Mr Thompson advised the Minor Variance application is only to create usable waterfront and they intend to respect the 30 metre setback from the high water mark, with no further variances requested. He noted when Part 3 is transferred to the Township, a natural severance will occur. He advised enlarging Part 3 will allow for a proper parking area and provide public access to the water.

Jen Thompson asked if the road could be changed to where the road allowance should be and move the forced road off the Thompson property. Carl Tooley advised that is a question for the Public Works Manager to answer.

Mr. Kosziwka advised if the road allowance was divided between the property owners, he would have no objections to the proposed development. Mr. Kosziwka noted they have a legal right to 50% of the road and are prepared to take legal action.

Jim Ogilvie asked about the impact if the Committee makes a decision about the Consent and Minor Variance application. Kapusta advised the land exchange has no impact on the applications; however Planning staff would like time to review the additional information provided.

Garry Wood advised he is not clear about the road allowance issue, as well as the potential Minor Variances on the property. Woods noted concerns were received late in the process. Bolton advised the Committee is the approval authority but she recommends a deferral.

16-24 Moved by Jim Ogilvie, Seconded by Garry Wood

Be It Resolved That Severance Application File #B08/24 – Ben Thompson and Greg Thompson, Thompson Road (Big Gull Lake) - shall be deferred until the comments provided today can be addressed by Township, Council or the solicitor.

Carried

17-24 Moved by Jim Ogilvie, Seconded by Garry Wood

Be It Resolved That Planning Application File #A04/24 – Application for Minor Variance – Ben Thompson and Greg Thompson, Thompson Road (Big Gull Lake) - shall be deferred until the comments provided today can be addressed by Township staff, Council or the solicitor.

Carried

10. Minor Variance Applications

- a) ***File #A03/24 - Request for Permission to Expand Legal Non-Complying Structure - Plan 1944, Lots 26 and 33, Geographic Township of South Canonto (4103 Palmerston Lake)***

Mary Rothfels, applicant, was present for the hearing.

Jennie Kapusta, Community Planner, provided an overview of the application requesting permission to expand a legal non-complying structure by enclosing the existing deck to create additional living space and adding an unenclosed deck.

Kapusta advised there is limited vegetation where the proposed addition will be located. She noted Mississippi Valley Conservation Authority (MVCA) advised there is a steep slope on the property which may be an erosion hazard; however they noted the proposed addition is minor and unlikely to cause slope stability issues in the future. Kapusta advised no public comments were received and recommended approval of the application.

Jim Ogilvie advised he attended the site, located on a north facing peninsula. He advised the lot is fairly steep on the east side and well treed on the west side. He noted the marking cards were posted during the required timeline. He advised the change in footprint is quite small and consistent with development within the area. Ogilvie recommended approval of the application subject to the conditions in the planning report.

Drechsler advised there were no comments from the public.

18-24 Moved by Garry Wood, Seconded by Jim Ogilvie

Be It Resolved That Planning Application File #A03/24 – Request for Permission to Expand Legal Non-Complying Structure – Mary Rothfels, 4103 Palmerston Lake - shall be approved subject to the conditions noted in the planning report;

And That the Secretary shall forward a copy of the Notice of Decision to the Applicant and each person or public body that made a written request to be notified and any other person or public body prescribed by July 4, 2024.

Carried

- b) ***File #A05/24 - Application for Minor Variance: Reduced Setback from High Water Mark - Plan 699, Lot 8, Concession 11, Geographic Township of Barrie (1149 Rekrview Lane)***

William Campbell, applicant, was present for the hearing.

Jennie Kapusta, Community Planner, provided an overview of the application to construct a 35 square metre covered, unenclosed outdoor kitchen with a sitting area within the 30 metre setback of the high water mark. She noted the property is well treed, naturally vegetated and fairly level.

Kapusta advised the application was screened out of Mississippi Valley Conservation Authority's (MVCA) review process as no natural hazards were identified. She noted permits would be required from MVCA for any future shoreline work. Kapusta advised a septic review was not required as there is no proposed increase in fixtures or interior living space. Kapusta recommended approval of the application.

Tooley advised he attended the site on June 12, 2024 and the required marking cards were posted. He noted no vegetation will be removed during construction. Tooley advised the structure cannot move back further due to the embankment and existing driveway. He recommended approval subject to the conditions included in the planning report.

Drechsler advised there were no public comments.

19-24 Moved by Jim Ogilvie, Seconded by Garry Wood

Be It Resolved That Planning Application File #A05/24 – Application for Minor Variance – William Campbell, 1149 Rekrview Lane - shall be approved subject to the conditions noted in the planning report;

And That the Secretary shall forward a copy of the Notice of Decision to the Applicant and each person or public body that made a written request to be notified and any other person or public body prescribed by July 4, 2024.

Carried

- c) ***File #A06/24 - Application for Minor Variance: Reduced Setback from High Water Mark - Part of Lot 19, Concession 10, Geographic Township of Clarendon (1112 Elizabella Lane)***

Heather and Robert Laliberte, applicants, were present for the hearing.

Mike Kelly, Community Planner, provided an overview of the application to construct a 121 square metre dwelling with a 26 square metre uncovered and unenclosed deck to be located on the north side of the dwelling. The proposed setback of the dwelling is 22.8 metres from the high water mark of Kashwakamak Lake. Kelly advised there is a retaining wall, storage trailer and septic system on the lot.

Kelly advised Mississippi Valley Conservation Authority (MVCA) had no objections to the proposed development but recommended a slope stability assessment due to the proximity to the retaining wall. Kelly noted the Township's Chief Building Official advised a compaction test would be required prior to the issuance of a building permit. Kelly recommended approval subject to conditions included in the planning report.

Wood advised he attended the site on June 6, 2024. He noted the property contained a cleared flat area, existing well and septic system, as well as a set of stairs to a dock on the water. He noted the proposed development seems reasonable and recommended approval.

Drechsler advised there were no public comments.

20-24 Moved by Garry Wood, Seconded by Jim Ogilvie

Be It Resolved That Planning Application File #A06/24 – Application for Minor Variance – Robert and Heather Laliberte - shall be approved subject to the conditions noted in the planning report;

And That the Secretary shall forward a copy of the Notice of Decision to the Applicant and each person or public body that made a written request to be notified and any other person or public body prescribed by July 4, 2024.

Carried

11. Other Business

None.

12. Adjournment

a) ***Adjournment of the Committee Meeting***

21-24 Moved by Jim Ogilvie, Seconded by Garry Wood

Be It Resolved That the meeting adjourns at 2:41 p.m. until July 22, 2024 at 1:00 p.m. or at the call of the Chair.

Carried

Chair

Secretary/Treasurer